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fundamentally, as Mr. Laski demonstrates, the theory developed by De Maistre, is no other than that with which Bismarck undertook the complete subordination of the church to the state, "Where De Maistre speaks of the Church, Bismarck speaks of the State: where De Maistre discusses the Papacy, Bismarck is discussing the German Empire. Otherwise, at bottom, the thought is essentially the same" (page 263). "Each saw in a world of individualization the guarantee of disruption and evolved a theory to secure its suppression. Each loved passionately the ideal of unity since that seemed to them both the surest guarantee of survival. Each saw truth as one and therefore doubted the rightness of a sovereignty that was either fallible or divisible; and each in the end came to the realization that his theories were inconsistent with the facts of life" (page 264).

Two brief appendices, entitled respectively "Sovereignty and Federalism" and "Sovereignty and Centralization," bring some phases of American experience to bear upon the problem.

Most of us who must confess to origin in the now much despised Victorian period, are probably not prepared to have the state reduced to the level of a public-service company, and indeed that is not what Mr. Laski urges; but it is high time that we address ourselves seriously to the task of evolving a theory of our American state which accords with the facts; and an Austinian theory is no longer wholly satisfying. If, as Mr. Laski admits in any such voluntarism as he speaks for, "room is left for a hint of anarchy" (page 24), the danger of the opposed theory is at least equally great. To quote the author again, "The thing of which I feel afraid, if the State be admitted limitless power, Professor Dewey has expressed felicitously in a single phrase, 'It has been instructed [he is speaking of the German State] by a long line of philosophers that it is the business of ideal right to gather might to itself in order that it may cease to be merely ideal.' Nor is what he urges true of Germany alone" (page 20).

But what we most need to do is to discover the facts and from them the truth. The state will never be absolutely secure and no unsupported theory is likely long to seriously increase or diminish the germs of conflict and danger which lie in any human society. But a theory slowly corrected by the facts, and by them brought into harmony with actuality, must aid greatly in the amelioration of the strife which the human race seems unable to avoid.

Many will doubtless disagree with Mr. Laski's conclusions; some will consider them "dangerous," but his book is an admirable essay, sound in method, vivid and scholarly, and pointing in the direction in which it is to be hoped he and others will go farther.

HENRY M. BATES.

AN OUTLINE SKETCH OF ENGLISH CONSTITUTIONAL HISTORY. By George Burton Adams. Yale University Press. 1918.

The publication of this little book recalls the fact that it is now almost half a century since the appearance of another book similar in scope and purpose and upon the same subject, the work of an unacknowledged master in the field whose importance is by no means commensurate with its small size. A comparison of Professor Adams' "Sketch" with Freeman's "Growth of the English Constitution" brings out contrasts more significant than mere differences of intellectual scholars. It is the twentieth-century view of the English constitution that stands out, sometimes in almost startling contrast over against that of the nineteenth. For Freeman gave eloquent voice to the conception of the origins of our institutions considered orthodox in his day, and one, it is not much to say, which still prevails amongst the older generation of lawyers and has not yet disappeared entirely from the textbooks.

Let us note a few differences. For the nineteenth century the constitutional developments of the centuries after the Norman Conquest are only "an altered garb of principles as old as the days when we got our first sight of our forefathers in their German forests. Changed as it is in all outward forms and circumstances, the England in which we live has in its true life a spirit far more in common with the English of the earliest times than it has with the English of days far nearer to our own." To Professor Adams "the tests which determine race in history are the characteristics of a civilization" rather than blood and "in this sense and upon the constitutional side our history (as Americans) on English soil begins in the Norman Conquest of England by William the Conqueror in 1066." Freeman is deeply impressed by the fact that the English sovereign of his day should "in so many respects hold the place of Alfred rather than the place of Richards and Henries of later times," while Professor Adams feels "compelled to say that it was the Norman conception of the office and practical operation of the kingship, not the Saxon, which became fundamental in the English constitution." As with the king, so with the Parliament after the Norman Conquest. "Be it Witenagemot, Great Council, or Parliament," says Freeman, "there has always been some body of men claiming with more or less right to speak in the name of the nation." "The Individual Baron," as Professor Adams sees him, "was not prone to regard his share in the public affairs as privilege or opportunity for the exercise of influence on the conduct of government but rather as a burden." Both these writers are filled with the greatest enthusiasm for the English constitution; Professor Freeman, because it is English, Professor Adams, because it is a constitution. The latter's departure from the older orthodoxy is entire, but his general interpretation of English history is one from which few present-day legal scholars would dissent. Here and there his statements may be considered too strong, his anti-Saxonism too complete, but the truth of his general picture of the Norman and Angevin kinds cannot easily be disputed. Whatever their origin these institutions at that time were flowing through a feudal channel and they can only be truly described in terms that are feudal, not national or popular.

The theme of Professor Adams' book is the limited monarchy, and it began, he thinks, with Magna Carta in 1215. Previous limitations of the king's power are feudal rather than national or constitutional, and even the self-limitation implied by the earlier kings' charters carried with it no machinery by which that limitation may be made effective. Magna Carta for the first time provides for a faithless or oppressive king a punishment which goes beyond the feudal *diffidatio* and rebellion of his vassals; it permits the Barons to coerce him by a collective and legalized rebellion which may be termed not inappropriately constitutional. From this crude beginning follows the long development through the baronial and parliamentary control of ministers which culminates in the modern cabinet system under which "a legislature could exercise an executive authority which in theory it did not have." The book is not a constitutional history of England. It implies rather than supplies the framework of dates and events necessary to a real history. The author's evident intention is rather to give an interpretation of these facts, his desire is "to show how modern liberty came to be what it is and what foundations our institutions have in the past history of the race." And that past history, though English, he considers as much "ours" as it is the possession of modern England. No two authors would treat this great theme in the same way, with the same emphasis, or in the same proportion. In this study, administrative history is practically omitted after Henry II, almost the whole attention being focused on the beginnings of representation and legislation; but this is not strange. The administrative history of England in the later Middle Ages and for some time after is still in manuscript. On the whole, a

reader's appreciation of this essay is likely to be greater in direct proportion to the amount of his knowledge of the facts of English history. The only positive misstatement noted is the reference to Doctor Cowell, author of the famous *Interpreter* as an "Oxford Scholar." He was Regius professor of the Civil Law at Cambridge.

C. H. McILWAIN.

M. ΚΡΙΤΟΥ ΤΟΥ ΠΙΑΤΖΗ ΤΙΠΟΥΚΕΙΤΟΣ. Sive Librorum LX Basilicorum Summarium. Libros I-XII Graece et Latine ediderunt Contardus Ferrini-Johannes Mercati. Romae, Typis Polyglottis Vaticani MCMXIV (Coll. Studi e Testi. Vol. 25).

It is well known among Romanists how helpful the Byzantine compilations of laws are for the restoration and the interpretation of the sources of Roman law. But most of the Byzantine compilations themselves in order to be of real service are still to be edited and some of those already edited need critical revision. The most important of these compilations are the sixty books, "*Τὰ βασιλικά*," which reached us in a mutilated condition and were edited by the Heimbach brothers in six volumes (Lipsiae, 1833-70). A seventh volume of "*Supplementa*" was added by two Italian scholars, C. Ferrini and G. Mercati, in 1897. To fill the gaps and to supply the missing parts of the Basilics, Heimbach made use of the *Τιπούκειτος*. It is a large summary or a repertory (*τί ποῦ κοῖται*; *Where is it?*) of the Basilics, made in the eleventh century and to be found in only one manuscript (Vatican, 853). But in Heimbach's reading of the passages, he quotes from the *Tipoukeitos* so defectively, and the text of the first twelve books which he gives *in extenso* in the third volume of the Basilics was edited with so little critical accuracy as to make the work useless. In only one passage of a little more than twenty lines, Prof. F. Brandileone ("*Bullettino dell' Istituto di Diritto Romano*," I, pag. 106) remarked more than twenty misreadings and omissions. As early as in the year 1888, the Italian Institute of Roman Law planned an edition of the *Tipoukeitos*, and Professor Brandileone himself was put in charge of the preliminary work. But various difficulties, especially of a financial character, interfered with the plan, which was given up entirely after some time. Later on Prof. C. Ferrini took upon himself the by no means easy task of translating and editing the *Tipoukeitos*, in collaboration, for the philological part of the work, with G. Mercati, the well-known Italian scholar of the Vatican Library.

No man was more fitted for such a task than Professor Ferrini. After the death of Zacharia von Lingenthal, Ferrini was considered the most authoritative European scholar in Greco-Roman law, and Von Lingenthal himself, when old and almost blind had trusted to Ferrini his papers and notes. His edition of the Paraphrasis of the Institute of the so-called "*Theophilus Antecessor*" (Berlin 1883-97), the volume of "*Supplementa*" to the Basilics and other works of the same kind, had already established his absolute competency for editing, translating, and commenting upon the Byzantine law texts. But his work on the *Tipoukeitos* did not progress farther than the first twelve books, because of his unexpected death by heart failure in October, 1902. He was only forty-two years old, and at his death his bibliography numbered almost two hundred publications on Roman and Byzantine law. In 1909 one of his posthumous works was published in the "*Fontes Juris Romani Ante-Justiniani in usum scholarum — Leges, Auctores, Leges saeculares*," edited by S. Riccobono, J. Baviera, and C. Ferrini (Florence, Barbera, two volumes, 1909). Ferrini's contribution to this publication was the third part, where he gave the Latin translation of the "*νόμοι saeculares*" from the Syriac version of the London manuscript. Previously he had already published the Latin